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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,967	10/24/2003	Renne Cano	321-001	1848

33354 7590 02/08/2005

SANDRA L. ETHERTON
ETHERTON LAW GROUP, LLC
PO BOX 27843
TEMPE, AZ 85285-7843

EXAMINER

FERGUSON, MICHAEL P

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,967

Applicant(s)

CANO ET AL.

Examiner

Michael P. Ferguson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Romberg (US 3,845,804).

As to claim 1, Romberg discloses a barrier system comprising:

a) means **30** for cutting objects attempting to penetrate an opening; and

b) means **32,36** for connecting the means for cutting in order to form a

substantially planar barrier wherein the substantially planar barrier is operable in the plane between an extended condition (wire gate **20** closed) whereby the planar barrier substantially covers the opening and a retracted condition (wire gate **20** open) whereby the planar barrier does not substantially cover the opening (Figure 1).

As to claim 2, Romberg discloses a system comprising means **32** for separating the means **30** for cutting from its surroundings, so as to prevent accidental cutting of proximately moving objects (moving between wire strands **30**; Figure 1).

As to claim 3, Romberg discloses a system wherein the means **32** for separating is transparent (one can see through the openings in wire stays **32**; Figure 1).

As to claim 4, Romberg discloses a system wherein the barrier is substantially rectangular (Figure 1).

As to claim 5, Romberg discloses a system comprising means **42** for retracting the substantially planar barrier (Figure 1).

As to claim 6, Romberg discloses a system comprising means **82,116** for compartmentalizing the means **42** for retracting (Figure 1).

As to claim 7, Romberg discloses a system in which the means **32,36** for connecting are such that the barrier is expandable and compressible (Figure 1).

As to claim 8, Romberg discloses a system wherein the means **30** for cutting comprises barbed tape (Figure 1).

As to claim 9, Romberg discloses a system wherein the means **30** for cutting comprises barbed wire (Figure 1).

As to claim 10, Romberg discloses a barrier system comprising:

- a) a plurality of cutters **30** connected to one another to form strips; and
- b) a plurality of strips connected to each other to form a substantially planar barrier capable of covering an opening, wherein the substantially planar barrier is operable in the plane between an extended condition (wire gate **20** closed) whereby the planar barrier substantially covers the opening and a retracted condition (wire gate **20** open) whereby the planar barrier does not substantially cover the opening (Figure 1).

As to claim 11, Romberg discloses a system comprising a separator **32** to separate the plurality of cutters **30** from their surroundings, so as to prevent accidental cutting of proximately moving objects (moving between wire strands **30**; Figure 1).

As to claim 12, Romberg discloses a system wherein a separator **32** is transparent (one can see through openings in wire stays **32**; Figure 1).

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As to claim 13, Romberg discloses a system wherein the barrier is substantially rectangular (Figure 1).

As to claim 14, Romberg discloses a system comprising a retractor **42** to retract the plurality of cutters **30** (Figure 1).

As to claim 15, Romberg discloses a system comprising a compartment **96,116** to compartmentalize a retractor **42** (Figure 1).

As to claim 16, Romberg discloses a system in which the plurality of strips **30** are connected such that the barrier is expandable and compressible (Figure 1).

As to claim 17, Romberg discloses a system wherein the plurality of cutters **30** comprises barbed tape (Figure 1).

As to claim 18, Romberg discloses a system wherein the barbed tape **30** comprises retainer barbs (Figure 1).

As to claim 19, Romberg discloses a system wherein the plurality of cutters **30** comprises barbed wire (Figure 1).

As to claim 20, Romberg discloses a method of making a barrier system comprising the process of connecting a plurality of strips **30** of barbed tape at spaced locations to form a barrier sheet that is substantially planar and capable of covering an opening, wherein the substantially planar barrier is operable in the plane between an extended condition (wire gate **20** closed) whereby the planar barrier substantially covers the opening and a retracted condition (wire gate **20** open) whereby the planar barrier does not substantially cover the opening (Figure 1).

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3. Claims 1, 4, 7-10, 13 and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Dobson (US 4,666,129).

As to claim 1, Dobson discloses a barrier system comprising:

a) means **12** for cutting objects attempting to penetrate an opening; and

b) means **21** for connecting the means for cutting in order to form a substantially planar barrier wherein the substantially planar barrier is operable in the plane between an extended condition (tape barrier **11** installed) whereby the planar barrier substantially covers the opening and a retracted condition (tape barrier **11** not installed) whereby the planar barrier does not substantially cover the opening (Figures 1, 3 and 7).

As to claim 4, Dobson discloses a system wherein the barrier is substantially rectangular (Figure 7).

As to claim 7, Dobson discloses a system in which the means for connecting **21** are such that the barrier is expandable and compressible (Figure 7).

As to claim 8, Dobson discloses a system wherein the means **12** for cutting comprises barbed tape (Figure 1).

As to claim 9, Dobson discloses a system wherein the means **12** for cutting comprises barbed wire (Figure 7).

As to claim 10, Dobson discloses a barrier system comprising:

a) a plurality of cutters **12** connected to one another to form strips; and

b) a plurality of strips connected to each other to form a substantially planar barrier capable of covering an opening, wherein the substantially planar barrier is operable in the plane between an extended condition (tape barrier **11** installed) whereby

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the planar barrier substantially covers the opening and a retracted condition (tape barrier **11** not installed) whereby the planar barrier does not substantially cover the opening (Figure 1 and 7).

As to claim 13, Dobson discloses a system wherein the barrier is substantially rectangular (Figure 7).

As to claim 16, Dobson discloses a system in which the plurality of strips **12** are connected such that the barrier is expandable and compressible (Figure 7).

As to claim 17, Dobson discloses a system wherein the plurality of cutters **12** comprises barbed tape (Figure 1).

As to claim 18, Dobson discloses a system wherein the barbed tape **12** comprises retainer barbs (Figure 1).

As to claim 19, Dobson discloses a system wherein the plurality of cutters **12** comprises barbed wire (Figure 1).

As to claim 20, Dobson discloses a method of making a barrier system comprising the process of connecting a plurality of strips **12** of barbed tape at spaced locations to form a barrier sheet that is substantially planar and capable of covering an opening, wherein the substantially planar barrier is operable in the plane between an extended condition (tape barrier **11** installed) whereby the planar barrier substantially covers the opening and a retracted condition (tape barrier **11** not installed) whereby the planar barrier does not substantially cover the opening (Figures 1 and 7).

Response to Arguments

4. Applicant's arguments filed January 31, 2005 have been fully considered but they are not persuasive.

As to claims 1, 10 and 20, Attorney argues that:

Romberg does not disclose a barrier system comprising a substantially planar barrier *capable of covering an opening, wherein the substantially planar barrier is operable in the plane between an extended condition whereby the planar barrier substantially covers the opening and a retracted condition whereby the planar barrier does not substantially cover the opening.*

Examiner disagrees. As to claims 1, 10 and 20, Romberg discloses a barrier system comprising a substantially planar barrier capable of covering an opening, wherein the substantially planar barrier is operable in the plane between an extended condition (wire gate **20** closed) whereby the planar barrier substantially covers the opening and a retracted condition (wire gate **20** open) whereby the planar barrier does not substantially cover the opening (Figure 1).

As to claims 1, 10 and 20, Attorney argues that:

Dobson does not disclose a barrier system comprising a substantially planar barrier *capable of covering an opening, wherein the substantially planar barrier is operable in the plane between an extended condition whereby the planar barrier substantially covers the opening and a retracted condition whereby the planar barrier does not substantially cover the opening.*

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Examiner disagrees. As to claims 1, 10 and 20, Dobson discloses a barrier system comprising a substantially planar barrier capable of covering an opening, wherein the substantially planar barrier is operable in the plane between an extended condition (tape barrier 11 installed) whereby the planar barrier substantially covers the opening and a retracted condition (tape barrier 11 not installed) whereby the planar barrier does not substantially cover the opening (Figure 7).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (703)308-8591. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703)308-2686. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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02/04/05



DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600